

§ 831.110

take no action after the reconsideration decision is rendered until the time limit to appeal has expired.

[45 FR 23632, Apr. 8, 1980, as amended at 49 FR 1330, Jan. 11, 1984; 50 FR 34664, Aug. 27, 1985; 62 FR 22873, Apr. 28, 1997]

§ 831.110 Appeals.

Appeals to MSPB. Except as noted in this paragraph, an individual or agency whose rights or interests under the Civil Service Retirement System (Subchapter III of chapter 83, title 5, United States Code) are affected by a final decision of the representative of the Associate Director for Compensation, Office of Personnel Management, may request the Merit Systems Protection Board to review such decision in accord with procedures prescribed by the Board. Decisions of OPM and the Associate Director for Compensation made in accord with the procedures referenced in § 831.109(b)(1) are made under subchapter II of chapter 83, title 5, United States Code. Such decisions are not appealable to the Merit Systems Protection Board under 5 U.S.C. 8347(d).

[44 FR 37890, June 29, 1979, as amended at 45 FR 23633, Apr. 8, 1980; 48 FR 38784, Aug. 26, 1983]

§ 831.111 Employee deductions and agency contributions.

(a) *Agency share.* When an agency fails to withhold some or all of an employee deduction under 5 U.S.C. 8334(a) for any pay period, the agency is still responsible for submitting the correct agency contribution to OPM. The agency must submit as the agency share, a payment equal to the amount that would have been submitted if the error had not been made (or a payment equal to the difference between the amount already submitted as the agency share and the amount that should have been submitted). The payment should be submitted to OPM in the manner currently prescribed for the transmission of withholdings and contributions as soon as possible, but not later than provided by standards established by OPM.

(b) *Employee share.* (1) If, through administrative error, an agency did not withhold any of the employee deductions required by 5 U.S.C. 8334(a) for

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any pay period, the employee may, at his or her option—

(i) Request the agency that employed him or her when the error was made to correct his or her records and arrange to pay any resulting overpayment of pay to the agency (unless it is waived by the agency); or

(ii) Pay the deposit plus any applicable interest (under certain conditions, the deposit may be made at any time until the final adjudication of his or her application for retirement) directly to OPM by submitting SF 2803; or

(iii) Have the period of service treated like the nondeduction service described in § 831.303.

(2) When the agency withholds part of the required employee deductions for any pay period, the balance must be submitted to OPM in the manner currently prescribed for the transmission of withholdings and contributions as soon as possible, but not later than provided by standards established by OPM. The agency must correct its error. The employee does not have the option to pay a deposit directly to OPM when partial deductions have been withheld.

(3) If the agency waives the employee's repayment of the salary overpayment that resulted from the administrative error, the agency must also submit (in addition to the agency contribution) the employee's share of the unpaid contributions to OPM in the manner currently prescribed for the transmission of withholdings and contributions.

[53 FR 35295, Sept. 13, 1988, as amended at 66 FR 66711, Dec. 27, 2001]

§ 831.112 Definitions of employee.

(a) *Determinations involving an employee's ability to make a deposit or redeposit.* A person may make a deposit or redeposit under section 8334 of title 5, United States Code, if he or she is an "employee." For purposes of this paragraph, an *employee* is—

(1) A person currently employed in a position subject to the civil service retirement law; or

(2) A former employee (whose annuity has not been finally adjudicated) who retains civil service retirement annuity rights based on a separation